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KERALA GAZETTE

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S. S. NAIDU,
Election Authority,
(Deputy Director of Panchayats).

Gazette Extraordinary No. 108, dated 11th October 1963.

GOVERNMENT OF KERALA

Law Department

NOTIFICATION

No. 11730/62/Law(K)3. *Dated, Trivandrum, 10th October,* 1963
18th Asvina, 1885.

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 10th day of October, 1963.

By order of the Governor.
P. Sankaran Elayath,
Law Secretary.

ACT 30 OF 1963

THE KERALA LOCAL AUTHORITIES LOANS ACT, 1963

An Act to unify and amend the laws relating to the borrowing powers of local authorities in the State of Kerala.

Preamble.—WHEREAS it is expedient to unify and amend the laws relating to the borrowing powers of local authorities in the State of Kerala;

BE it enacted in the Fourteenth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Local Authorities Loans Act, 1963.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) "local authority" means any person legally entitled to the control or management of any local, panchayat or municipal fund, or legally entitled to impose any cess, rate, duty or tax within any local area;

(2) "funds" used with reference to any local authority includes any local, panchayat or municipal fund to the control or management of which such authority is legally entitled, and any cess, rate, duty or tax which such authority is legally entitled to impose and any property vested in such authority

(3) "prescribed" means prescribed by rules made under this Act; and

(4) "work" includes a survey whether incidental to any other work or not.

3. *Borrowing powers of local authorities.*—(1) A local authority may, subject to the prescribed conditions, borrow

money from the Government or with the previous sanction of the Government from any other person, on the security of its funds or any portion thereof, for any of the following purposes, namely:—

(i) the carrying out of any work which it is legally authorised to carry out;

(ii) the giving of relief and the establishment and maintenance of relief works in times of famine, scarcity, epidemic or flood;

(iii) the prevention of the outbreak or spread of any dangerous epidemic disease;

(iv) any measures which may be connected with or ancillary to any purposes specified in clauses (ii) and (iii);

(v) the repayment of money previously borrowed in accordance with law:

Provided that no portion of the money so borrowed shall be applied to any purpose other than that for which it was borrowed.

(vi) any other purpose which the Government may specify.

(2) (a) The time for the repayment of any money borrowed under this section shall in no case exceed sixty years.

(b) The time for the repayment of any money borrowed before the commencement of this Act shall not, except with the express sanction of the Government, extend beyond the period of sixty years.

(c) The time for the repayment of any money borrowed for the purpose of discharging any previous loan shall not, except with the express sanction of the Government, extend beyond the unexpired portion of the period for which such previous loan was raised.

(3) Nothing in this section shall be deemed to authorise any local authority to borrow or spend money for any purpose for which, under the law for the time being in force, it is not authorised to apply its funds.

4. *Remedy by attachment if loan not repaid.*— If any money borrowed in accordance with the provisions of this Act, or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan, the Government if itself the lender, may, and if the Government is not the lender shall on the application of the lender attach the funds on the security of which the loan was made. After such attachment, no person, except an officer appointed in this behalf by the Government, shall in any way deal with the attached funds, but such officer may do all acts in respect thereof which the borrowers might have done if such attachment had not taken place and may apply the proceeds in satisfaction of the loan and of all interests and costs due in respect thereof and of all expenses caused by the attachment and subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of the liability in respect of which such attachment is made.

5. *Power of local authority to guarantee payment of interest on, or to create a fund for repayment of capital expended on any work to which the funds may be applied.*—The Government may authorise any local authority either severally or in conjunction with any other local authority, to charge its funds or any part thereof by way of guarantee for the payment of interest on, or by the creation of a fund for the repayment of, money expended or to be expended on any work or for any of the purposes to which such funds might be by law applied.

6. *Remedy by attachment if engagements not fulfilled.*—In the event of default being made by a local authority in the fulfilment of engagements entered into under the last preceding section, the Government may on the application of a person entitled under such engagements, attach the funds made subject to charge on account thereof. After such attachment, no person, except an officer appointed in this behalf by the Government shall in any way deal with the attached funds; but such officer may do all acts in respect thereof which the local authority might have done if such attachment had not taken place, and may apply the proceeds to the discharge of the liabilities incurred and in payment of all costs due in respect thereof, and of all expenses caused by the attachment and subsequent proceedings consequent thereon:

Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of a liability in respect of which such attachment is made.

7. *Issue of short term bills.*—(1) Subject to the provisions of section 31 of the Reserve Bank of India Act, 1934, any local authority to which the Government may by notification in the Gazette extend the provisions of this section, may, with the previous sanction of the Government, borrow money by means of the issue of bills or promissory notes payable within any period, not exceeding twelve months, for any purpose for which such local authority may lawfully borrow money under the provisions of this Act.

(2) The Government may, by general or special order, regulate the conditions on which money may be borrowed or repaid under this section

8. *Power of Government to make rules.*—(1) The Government may, by notification in the Gazette make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide as to:—

(i) the nature of the funds on the security of which money may be borrowed or interest guaranteed;

(ii) the works for which money may be borrowed or for the carrying out of which the payment of interest may be guaranteed;

(iii) the manner of making applications for permission to borrow money;

(iv) the manner of making application for sanction to give guarantee under section 5;

(v) the inquiries to be made in relation to such application and the manner of conducting such inquiries;

(vi) the inquiries to be made in relation to loans and the manner of conducting such inquiries;

(vii) the inspection of any works carried out under any contract in respect of which the payment of interest is guaranteed under this Act;

(viii) the accounts to be kept by the person or corporate body with whom such contract is made and for the inspection of the same;

(ix) the cases and the forms in which particulars of applications and proceedings, and orders thereon, shall be published;

(x) the cases in which and the conditions subject to which the Government may make loans;

(xi) the cases in which and the conditions subject to which local authorities may take loans from persons other than the Government;

(xii) the manner of recording and enforcing the conditions on which money is to be borrowed;

(xiii) the manner and the time of making or raising loans;

(xiv) the inspection of any works carried out by means of loans;

(xv) the instalments, if any, by which loans shall be repaid, the interest to be charged on loans and the manner and the time of repaying loans and of paying the interest thereon;

(xvi) the sum to be charged against the funds which are to form the security for the loan, as costs in effecting the loan;

(xvii) the attachment of such funds and the manner of disposing of or collecting them;

(xviii) the accounts to be kept in respect of loans;

(xix) the utilisation of unexpended balances of loans either in the reduction in any way of the debt of the local

authority, or in carrying out any works which that authority is legally authorised to carry out, and the sanction necessary to such utilisation.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

9. *Loans not to be effected except under this Act.*—Except as provided by or under this Act, no local authority shall, for any purpose, borrow money upon or otherwise charge, its funds, and any contract otherwise made for that purpose after the passing of this Act shall be void:

Provided that nothing herein contained shall be deemed—

(a) to preclude any local authority from exercising the borrowing powers conferred on it by any special enactment now or hereafter in force; or

(b) to affect the power conferred on any local authority by any such enactment to charge its funds, by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied.

10. *Repeal.*—The Local Authorities Loans Act, 1914 (Central Act 9 of 1914), and the Madras Local Authorities Loans Act, 1888 (Madras Act 1 of 1888) as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956) and the Travancore-Cochin Local Authorities Loans Act, 1951 (Act IX of 1951), are hereby repealed.

Gazette Extraordinary No. 108, dated 11th October 1963.

GOVERNMENT OF KERALA

Law Department

NOTIFICATION

No. 11296/62/Law(K)3. *Dated. Trivandrum, 10th October, 1963.*
18th Asvina, 1885.

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 10th day of October, 1963.

By order of the Governor,
P. SANKARAN ELAYATH,
Law Secretary.

(ACT 29 OF 1963)

THE KERALA MUNICIPALITIES (AMENDMENT) ACT, 1963

An Act further to amend the Kerala Municipalities Act, 1960.

Preamble.—WHEREAS it is expedient further to amend the Kerala Municipalities Act, 1960, for the purposes hereinafter appearing;

BE it enacted in the Fourteenth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Municipalities (Amendment) Act, 1963.

(2) It shall be deemed to have come into force on the first day of April, 1963.

2. *Amendment of section 99 of Act 14 of 1961.*—In section 99 of the Kerala Municipalities Act, 1960 (Act 14 of 1961), hereinafter referred to as the principal Act,—

(1) in sub-section (2), for the words "the annual value of lands or buildings or both" the words "the annual value of buildings, or lands which are occupied by, or adjacent and appurtenant to, buildings, or both" shall be substituted;

(2) in the first proviso to sub-section (2), for the words "the annual value of all lands or buildings or both" the words "the annual value of all buildings, or lands which are occupied by, or adjacent and appurtenant to, buildings, or both" shall be substituted;

(3) in sub-section (3), for the words "The municipal council may" the words "The municipal council shall", shall be substituted;

(4) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) (a) The municipal council shall in the case of lands used exclusively for agricultural purposes, levy these taxes at such percentage as it may fix, of the annual value of such lands:

Provided that the percentage shall not exceed the maximum if any fixed by the Government.

Explanation.—For the purpose of this sub-section the annual value of lands shall be deemed to be the gross annual rent at which they may reasonably be expected to be leased from year to year.

(b) Notwithstanding anything contained in section 104, if such lands be occupied by tenants, the municipal council shall levy the taxes in equal shares from the land-owner and the tenant respectively.

Explanation.—'Tenant' for the purpose of this clause means a tenant in possession of the land";

3. *Amendment of section* 100 *of Act* 14 *of* 1961.—In section 100 of the principal Act, in sub-section (2),—

(i) for the words "The annual value of lands and buildings", the words "The annual value of buildings and lands which are occupied by, or adjacent and appurtenant to, buildings" shall be substituted;

(ii) in the second proviso, for the words "the annual value of any land or building", the words "the annual value of any building or land which is occupied by, or adjacent and appurtenant to buildings", shall be substituted.

4. *Amendment of section* 101 *of Act* 14 *of* 1961.—In section 101 of the principal Act, in sub-section (1),—

(i) after clause (c) the following clause shall be inserted; namely:—

"(cc) buildings used for educational purposes including hostels, public buildings and places used for the charitable purpose of sheltering the destitute or animals and libraries and play grounds which are open to the public;";

(ii) in the explanation at the end, for the words "residential quarters attached to schools and colleges" the words "residential quarters attached to schools and colleges, not being hostels," shall be substituted.

5. *Amendment of section* 102 *of Act* 14 *of* 1961.—In section 102 of the principal Act, in sub-section (1),—

(i) after the words "when levied on their annual value," the words, brackets and figures "under sub-section (2) of section 99" shall be inserted;

(ii) for the words "or on lands liable to be taxed" the words "or on lands liable to be so taxed" shall be substituted.

6. *Amendment of section* 412 *of Act* 14 *of* 1961.—In section 412 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) The term of office of the councillors or of the councillors elected in their places at casual vacancies shall expire at the end of five years if the day referred to in sub-section (2) is the first day of November, and in other cases at the end of five years from the first day of November immediately preceding such day:

Provided that the Government may, by notification in the Gazette, extend or reduce the said term by such period not exceeding one year as may be specified in the notification.".